

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JAMMIE L. YERKS,

Plaintiff,

v.

Case No. 17-cv-1735-pp

PAMELA SHURPIT and
CAPTAIN JOSEPH FALKE,

Defendants.

**ORDER CONSTRUING PLAINTIFF'S MOTION TO STAY
PROCEEDINGS AS MOTION FOR EXTENSION OF TIME TO
RESPOND TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT,
AND GRANTING THE MOTION (DKT. NO. 23)**

On December 13, 2017, the plaintiff filed a complaint under 42 U.S.C. §1983. Dkt. No. 1. The court screened the complaint and allowed the plaintiff to proceed on Eighth Amendment deliberate indifference claims against the defendants. Dkt. No. 8. After the defendants answered the complaint, the court issued a scheduling order requiring the parties to complete the exchange of discovery by October 25, 2018, and to file dispositive motions by November 26, 2018. Dkt. No. 13.

On November 26, 2018, the defendants filed a motion for summary judgment and supporting documents. Dkt. Nos. 16-22. As the court advised the plaintiff in the scheduling order, the plaintiff's response to that motion was due within 30 days—in this case, by December 26, 2018. See Civil Local Rule

56(b)(2) (E.D. Wis.), Dkt. No. 13 at 2. The plaintiff did not file a response by December 26.

On January 7, 2019, the court received from the plaintiff the current motion, asking the court to “stay proceedings” for two weeks to allow him to respond to the summary judgment motion. Dkt. No. 23. He states that he needs this additional time because his “response was due on or around the holidays, which, prejudiced [him] from the start because staff in the prison holiday schedule, and postal services for Cooper.” *Id.* (The plaintiff explains that he has been getting help from two inmates, one of whom—Demetrius Cooper—was “forced to remain on clinical observation due to a suicide attempt”—and the other, an unnamed inmate, who “abandoned” the plaintiff.)

The court construes the plaintiff’s motion as a motion for an extension of time to file his response to the defendants’ summary judgment motion, and will grant the extension of time. The court will require the plaintiff to file his response by the end of the day on Monday, February 25, 2019. He must file his response in time for the court to *receive* it by February 25, 2019. If the plaintiff needs more time, he may ask for it, but he needs to file any future motions to extend that deadline in time for the court to receive it *before* the deadline expires.

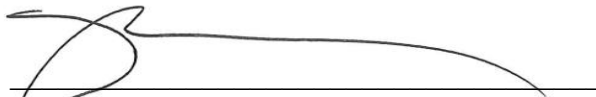
If the court does not receive either the plaintiff’s response to the motion for summary judgment or a request for an extension of time by the end of the

day on February 25, 2019, the court will treat the motion for summary judgment as unopposed. See Civ. L.R. 7(d) (E.D. Wis. 2010).

The court **CONSTRUES** the plaintiff's motion to stay proceedings as a motion for an extension of time to file his response to the defendants' motion for summary judgment, and **GRANTS** that motion. Dkt. No. 23. The court **ORDERS** that by the end of the day on **February 25, 2019**, the plaintiff shall file either his response to the defendants' motion for summary judgment or a motion to extend the deadline for filing that response. If the court does not receive either of those things by the end of the day on February 25, 2019, the court will treat the defendants' motion as unopposed and will rule on it on that basis.

Dated in Milwaukee, Wisconsin, this 23rd day of January, 2019.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge